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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS
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In the Matter of)	
)	
Access Charge Reform)	CC Docket 96-262
)	
Price Cap Performance Review)	CC Docket 94-1
for Local Exchange Carriers)	
)	
Transport and Rate Structure)	CC Docket 91-213
and Pricing)	
)	
Usage of the Public Switched)	CC Docket 96-263
Network by Information Service))	
and Internet Access Providers))	

Reply Comments of General Communication, Inc.

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SUMMARY

The comments received in this proceeding support access charge reform for all incumbent LECs (ILECs). However, the proposal offered by many ILECs to institute a market based approach and deregulation, while being fully compensated for historical embedded costs should not be adopted. The Commission must remember the prudent transition of AT&T in the long distance industry from monopolist to non-dominant carrier.

GCI urges the Commission to implement access charge reform for all ILECs on a prescriptive basis. Market forces cannot constrain the anti-competitive and predatory nature of ILECs until true, actual competition occurs. Once true, actual competition is in place, the Commission can rely on market forces.

The Commission should also take care that its access charge reform for price cap LECs not adversely affect interexchange competition in areas where there is no reform. If the Commission establishes a mechanism to recover embedded ILEC costs for price cap carriers, those costs should be paid only by the carriers that benefit from access charge reform.

Further, the Commission should not institute bulk billing of non-traffic sensitive costs (NTS). This ensures revenue recovery for the ILEC even when faced with competition.

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Reply Comments of General Communication, Inc.

General Communication, Inc. (GCI) hereby submits reply comments in response to the Notice of Proposed Rulemaking, Third Report and Order and Notice of Inquiry (Notice)¹ issued in this matter.

Introduction

The comments received in this proceeding support access charge reform for all incumbent LECs (ILECs). However, the proposal offered by many ILECs to institute a market based approach and deregulation, while being fully compensated for historical embedded costs should not be adopted. The Commission must remember the prudent transition of AT&T in the long distance industry from monopolist to non-dominant

¹Access Charge Reform, FCC 96-488, released December 24, 1996.

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The Commission should also take care that its access charge reform for price cap LECs not adversely affect interexchange competition in areas where there is no reform. If the Commission establishes a mechanism to recover embedded ILEC costs for price cap carriers, those costs should be paid only by the carriers that benefit from access charge reform.

Further, the Commission should not institute bulk billing of non-traffic sensitive costs (NTS). This ensures revenue recovery for the ILEC even when faced with competition.

Lastly, the Commission should apply revised access charges to information service providers (ISPs). Payment of access charges by information services providers is consistent with fair competition.

I. Market Evolution in Long Distance

AT&T has recently been classified as a non-dominant carrier. This occurred after AT&T had faced for a number of

years some sort of competition from other long distance carriers. The Commission determined that it should not relax its regulation of AT&T until competition had taken hold and was well established. Over the years, the Commission evaluated the status of competition in the long distance market. However, the Commission did not deregulate AT&T for many years because real and effective competition had not been achieved. The Commission adopted non-symmetrical regulation for AT&T's competitors over time because the Commission determined that these carriers did not have market power,² but AT&T did have market power. Regulatory relief was granted to these carriers over time as the Commission gained information about each carriers ability to use its market power. The Commission based its analysis on actual data regarding the competitive marketplace, not future predictions of possibilities.

AT&T was not deregulated in one step. Initially, AT&T was able to file some tariffs on a streamlined basis. However, the Commission did not classify AT&T as non-dominant until 1995, after determining that AT&T faced true competition from other carriers. The competition built over

²The Commission took a step by step approach by treating specialized common carriers as non-dominant, then resellers, then domestic satellite carriers, international record carriers and interexchange carriers affiliated with independent telephone companies.

a number of years. This system of moving the dominant carrier AT&T to a deregulatory mode has allowed consumers to benefit and competitors to be shielded against anti-competitive and predatory behavior of the dominant carrier. The Commission should follow this model for ILECs.

II. The Commission Should Adopt A Prescriptive Approach To Access Charge Reform

In their comments, many ILECs claim that they face substantial competition and need regulatory relief to respond to new entrants. Alltel goes so far as to say they need regulatory relief even though no one has requested interconnection with them. Alltel states that it faces being surrounded by areas that have new entrants. The ILECs stress that they need pricing flexibility, which will allow them to price in any manner,³ all the while stressing that they need to be compensated fully for their historical embedded costs.⁴ The Commission cannot implement pricing flexibility for ILECs until there is actual and real competition. The Commission must take the stepped approach as outlined above for the ILECs. The mere existence of an

³This flexibility would include allowing different prices to be charged to different classes of customers based on the whim of the ILEC, not any actual cost characteristics.

⁴GCI will address this issue below.

interconnection agreement⁵ does not signify true and real competition. It certainly opens up the possibility of true competition developing. However, it does not happen overnight.

Many companies are in the process of negotiating or arbitrating an interconnection agreement with many ILECs. However, none has satisfied fully the move to true competition. Resale and unbundled network elements by themselves will not achieve full competition. They have not enabled CLECs to function as an actual competitor. Just because an agreement has been signed by both parties does not ensure proper implementation by the ILEC. For example, many operational support issues to enable customers to move from the ILEC to the CLEC have not been fully implemented.

The Commission should reward ILECs that support a competitive environment through their actions with measured deregulation over time. The Commission cannot predetermine that deregulatory moves such as the various forms of pricing flexibility outlined in the comments should be implemented until it can see the marketplace actually work.

III. Interexchange Competition Should Not Be Sacrificed

Interexchange competition is available in very rural areas today. Competition in these areas is the best means

⁵Alltel stresses that they need pricing flexibility even without entering into an interconnection agreement.

to ensure high quality service at low rates. To the extent that the Commission neglects access charge reform in these areas, interexchange competition will suffer.

The importance of fostering competition in rural areas is vividly demonstrated by recent history as documented in the Alaska Joint Board proceeding.⁶ As demonstrated in its initial comments, the history of interexchange competition in Alaska clearly demonstrates that, even in rural areas, competition and not subsidized monopoly leads to the introduction of modern, high quality service.

The importance of this lesson for the current proceeding should be evident: interexchange competition is important in all areas. Access charge reform is important to interexchange competition. Access charge reform for non-price cap LECs should be considered promptly, if not considered in this proceeding.

IV. The Commission Should Not Mandate Recovery of ILEC Historical Embedded Costs

The Commission discusses various recovery mechanisms for the difference between revenue generated by access charges based on embedded costs versus access charges based on forward looking costs. Of course, the ILECs support full cost recovery, while at the same time arguing for

⁶Integration of Rates and Services, 9 FCC Rcd 3023 (1994), adopting Final Recommended Decision, 9 FCC Rcd 2197 (1994).

flexibility that will allow them to charge anything they want. GCI opposes any special recovery mechanisms. Many commenters disagree with the claims of incumbent LECs that recovery of embedded costs is required.

As outlined in the comments of the State Advocates,

Utilities are not entitled to recover costs that have become uneconomic due to competitive pressures. In Duquesne Light Co. v. Barasch, 488 U.S. 299 (1989), the Supreme Court held that a "scheme" of utility regulation does not "take" property simply because it disallows recovery of capital investments that are not "used and useful in service to the public," even where it excludes costs that were prudent and reasonable when made. 488 U.S. at 301-02.

GCI agrees that the ILECs cannot be made whole in a competitive environment.

V. Any Special Mechanism for Recovery of Embedded ILEC Costs Should be Paid Only By the Carriers That Benefit From Access Charge Reform

In its Notice, the Commission discussed the possibility of a special fund somewhat like the universal service fund, to recover historical embedded LEC costs, and many ILECs commented in support of such a fund. As stated above, GCI opposes such a fund and does not believe ILECs have any right to embedded cost recovery. However, in the event that the Commission establishes such a fund, the proper structure of payments into the fund is very important and GCI offers these comments.

As discussed in our initial comments, any recovery mechanism should impose costs only on carriers that benefit from the reform and only to the extent to which the carrier benefits. Any special surcharge should not be paid in conjunction with access to LECs that were not part of the reform, where access charges are already higher.

A carrier, such as GCI, that does not provide originating service in any areas served by a price cap LEC will get very limited benefit from reform for price cap LECs. Most nationwide carriers carry a high proportion of traffic that both originates and terminates with a price cap LEC, but virtually none of GCI's traffic originates with a price cap LEC. For that reason, GCI would have no savings for originating access from reform for price cap LECs. Even for terminating access, GCI's benefit will be limited and, for 80% of its terminating access, GCI would receive a benefit only after renegotiation of its arrangements for terminations with other carriers.

In sum, the benefit from access charge reform for price cap LECs will fall disproportionately on only nationwide carriers. Even if carriers like GCI get some benefit on terminating access, such carriers will continue to face average access charges at least double that faced by the carriers that serve areas of price cap LECs.

Accordingly, the recovery mechanism should be based on

the provision of interexchange service in the area of the LECs subject to reform. Whether the recovery mechanism is based on presubscribed access lines or revenues or some other measure, it should include only the access line or revenues or other metric only for the area subject to reform.

Any other recovery mechanism will produce hardship on other carriers and will be contrary to other goals. As explained above, carriers like GCI already provide service in areas with higher than average costs and they already face high access charges. If those charges are increased, without any offsetting benefit, the ability of carriers like GCI to provide high quality service in rural areas at nationwide averaged rates is severely constrained.

VI. Bulk Billing Should Not Be Adopted - It Ensures that the ILECs are Made Whole

Many ILECs encourage the Commission to bulk bill their non-traffic sensitive (NTS) costs to interexchange carriers either on the basis of the interexchange carriers revenues, market share, minutes or on the basis of presubscribed lines. Bulk billing should not be adopted. Bulk billing ensures total revenue recovery for the ILEC. Under a bulk bill process the ILEC receives the same revenues whether they face no competition or substantial competition. A carrier cannot avoid any of the costs encompassed in the

bulk bill which is based on revenues or market share, even if the carrier uses CLECs for 100% of its traffic. A carrier cannot avoid any of the costs encompassed in the bulk bill which is based on minutes running over the ILECs network unless the carrier is able to take 100% of its minutes off of the ILEC network. A feat that would be almost impossible. A carrier cannot avoid any of the costs encompassed in the bulk bill which is based on presubscribed lines unless the carrier does not have any presubscribed customers.⁷

The ILECs support a bulk bill process to ensure total cost recovery. However, bulk billing does not fit into a pro-competitive deregulatory framework.

VII. Information Services Should be Subject to Reformed Access Charges

The Commission tentatively concluded in its Notice that information service providers (ISPs) should not be required to pay access charges. The ISPs agree with that conclusion. All other commenters believe that the ISPS should pay access charges. The ISPs claim that they are in a very competitive business and additional costs will be detrimental. This conclusion could also be made by long distance carriers who have solely supported universal service and paid access

⁷This would also be impossible. Further, the carrier could not avoid the costs if the Commission instituted a process to collect on dial around calls as proposed.

charges.

Also, use of the Internet for voice communication is available. It is now possible to download software from the Internet and use that software to complete voice communications between a computer at the originating end and a normal landline telephone at the terminating end.⁸ The voice quality is quite good.

The use of Internet for voice communications is likely to spread significantly. It is appropriate to allow Internet providers to compete directly with interexchange carriers, but to exempt the Internet providers from the same charges placed on interexchange carriers is inappropriate. Such price distortions are the antithesis of the competitive market that the Telecommunications Act of 1996 was intended to promote. They are also inconsistent with the "a minute is a minute" approach that the Commission has embraced in other contexts.

⁸An audio tape demonstrating this technology is available for the Commission.

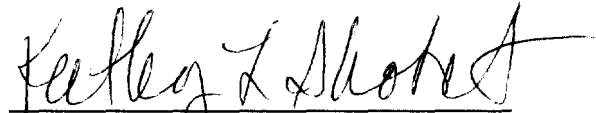
General Communication, Inc.
February 14, 1997

Conclusion

Access charge reform is important for all areas and must be instituted in a prescriptive manner until true, full actual competition exists. In reforming access, the Commission must be mindful not to harm interexchange competition.

Respectfully submitted,

GENERAL COMMUNICATION, INC.

A handwritten signature in dark ink, appearing to read "Kathy L. Shobert", written over a horizontal line.

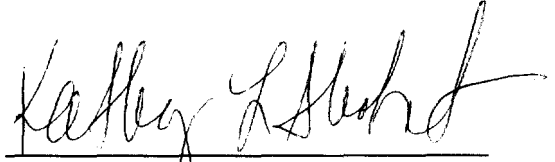
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February 14, 1997

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct.

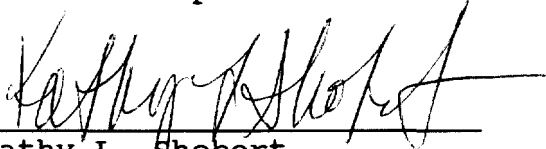
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A handwritten signature in cursive script, reading "Kathy L. Shobert", written over a horizontal line.

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CERTIFICATE OF SERVICE

I, Kathy L. Shobert, hereby certify that true and correct copies of the proceeding comments were served by first class mail, postage prepaid to the parties listed below.


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